

REMARKS

Claims 13-30 are pending. By this Amendment, the specification and claims 13, 18, 19, 24, 25, 27, 28 and 30 are amended. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claims 18-20 were rejected under 35 U.S.C. §112, first paragraph (enablement). In addition, claims 25 and 26 were rejected under 35 U.S.C. §112, first paragraph, as per the Examiner's suggestion on page 3, lines 1 and 2 of the Office Action, the terms "horizontal mesh" and "horizontal meshes" have been changed to --horizontal member-- and --horizontal members--, respectively. It is believed that these see, for example, the specification and claims 18, 19 and 25.

Reconsideration and withdrawal of the objection are respectfully requested.

Claim 25 was rejected under 35 U.S.C. §112, second paragraph based on lack of antecedent basis for "the fixing means". By this Amendment, claim 24 has been amended so as to change "fixing means" to --fixing structure--.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 13-20 and 22-26 were rejected under 35 U.S.C. §102(b) over Smith (U.S. Patent No. 5,480,035). This rejection is respectfully traversed.

As set forth in Applicants' previous response, Smith does not teach or suggest that the framework includes a common edge to which the plurality of holding elements are secured. Instead, Smith teaches that shelf 20 is mounted between a pair of opposite side walls 16 and 17 as shown in Figure 1. In effect, the opposite side walls define a pair of opposite edges to which the shelf is mounted, not a common edge to which both holding elements are mounted.

In any event, claim 13 has been amended herein to preclude the Examiner's interpretation of "the edge" of Smith. In particular, claim 13 specifies that the plurality of holding elements are secured on the common edge along only one side of the framework. Clearly, Smith's supporting elements are secured on opposite sides of the framework.

Independent claim 25 has also been amended so as to obviate the Examiner's interpretation of Smith. In particular, claim 25 specifies that the framework includes at least one horizontal member and at least first and second vertical wires intersecting with the horizontal member along a single side of the frame work. In addition, the first and second

holding elements engage the framework at first and second intersections, respectively, between the horizontal member and the first and second vertical wires along the single side.

Clearly, Smith does not teach a framework with a horizontal member and at least first and second vertical wires intersecting with the horizontal member along a single side of the framework, or that the first and second holding elements engage with the framework at intersections between the horizontal member and the vertical wires along the single side. Instead, Smith teaches that its holding elements engage with the framework on opposed sides of the framework, not a single side of the framework as claimed.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 27-30 were rejected under 35 U.S.C. §102(b) over Stottmann et al. (U.S. Patent No. 5,431,294). This rejection is respectfully traversed.

Stottmann et al. does not teach or suggest a crockery basket. Instead, Stottmann et al. is directed toward a flatware or utensil basket. In addition, Stottmann et al. does not teach or suggest at least one rack. Instead, what the Examiner characterizes as a rack is actually identified as a cover 65. Cover 65 forms a chamber which conveniently can be used to wash small items, such as baby bottle nipples and various plastic items, for example, that otherwise could be displaced by the force of the liquid sprayed onto the chamber. See column 4, lines 52-57. To more particularly distinguish over Stottmann et al.'s cover 65, claim 27 is amended to specify at least one rack having an upper surface to support the items relative to the framework.

In addition, Stottmann et al. does not teach or suggest a plurality of holding elements to hold the at least one rack at different height positions of the crockery basket. In the Office Action, the Examiner considers that the horizontal and vertical positions of the cover 65 constitute the claimed different height positions. However, Applicants respectfully submit that the height of the cover 65 does not change since it is fixedly attached to pivot 60 provided as part of handle 52. To the extent that the rack assumes one position in which it is horizontal and another position in which it is vertical, the vertical position does not support the retention of items relative to the framework as set forth in original claim 27. Obviously, in the upper position, the cover 65 has no ability to support any items on its narrow edge, and

nor does it have any ability to retain positions within the basket as specified in column 4, lines 53-57.

In addition, Stottmann et al. does not teach that the rack includes a supporting clip to form a mechanical stop engageable with the framework when the rack is in the generally horizontal position. In the Office Action, elements 70, 71, 72 and 73 are identified as the supporting clip. However, Stottmann et al. makes clear that the support of the rack is via wall 75 or extending rib 76 per column 4, lines 42-63. In particular, vertical cross wall 75 extends between the basket side walls 37 and 38 in a space from the first cross wall to support the distal portion of the cover body 66 (when in the horizontal position). On the other side of the first cross wall 50 each side wall 37, 38 is formed with the vertically extending rib 76 positioned to support the distal portion of the cover body 66. Thus, it is clear that elements 70, 71, 72 and 73 are not forming a mechanical stop engageable with the framework when the rack is in the generally horizontal position. Rather, it is walls 75 or extending rib 76 that form a mechanical stop for the cover 65 when in one of the two horizontal positions.

Thus, Applicants respectfully submit that the rejection is made prematurely final since at least the rejection of claim 27 based on Stottmann et al. was in error. As such, entry of the Amendments herein are requested as a matter of right, especially as Applicants believe that the claim amendments place the application in condition for allowance.

Moreover, although not believed necessary, claim 27 is further amended to specify that the rack has a pivot pin about which the rack is pivotable. In addition, claim 27 specifies that at least one rack is pivotable about the pivot pin between the generally horizontal and vertical positions. In the Office Action, the Examiner considers element 60 to be the pivot pin. However, element 60 is clearly part of handle 52 (see Figure 2) of Stottmann et al. which handle the Examiner considers to be part of the framework rather than the rack.

Furthermore, dependent claim 28 specifies that the supporting clip is formed as an extension of and in one piece with the pivot pin. Forming pivot pin 60 of handle 52 as an extension of and in one piece with elements 70-73 of cover 65 would render that structure inoperative.

Reconsideration and withdrawal of the rejection are respectfully requested.

ATTORNEY DOCKET NO.: 2003P01288WOUS

Claims 21 was rejected under 35 U.S.C. §103(a) over Smith. This rejection is respectfully traversed at least because claim 1 indirectly depends from claim 13, which is patentable for the reasons described above.

Reconsideration and withdrawal of the rejection are respectfully requested.

Applicants respectfully requests entry of the present Amendment. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned.

Respectfully submitted,

/James E. Howard/

James E. Howard

Registration No. 39,715

September 25, 2009

BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern, NC 28562
Phone: 252-639-7644
Fax: 714-845-2807
james.howard@bshg.com